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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/055,864	01/22/2002	Bert W. Elliott	25116A	5183

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OWENS CORNING
2790 COLUMBUS ROAD
GRANVILLE, OH 43023

EXAMINER

GRAY, LINDA LAMEY

ART UNIT	PAPER NUMBER
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1734

DATE MAILED: 09/03/2003

3

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/055,864

Applicant(s)

ELLIOTT, BERT W.

Examiner

Linda L Gray

Art Unit

1734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) 7-9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 January 2002 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other:

DETAILED ACTION

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-6, drawn to a method of making a shingle, classified in class 156, subclass 260.
 - II. Claims 7-9, drawn to a shingle, classified in class 428, subclass 143.
2. The inventions are distinct, each from the other because of the following reasons: Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product as claimed can be made by another and materially different process such as providing the underlay and overlay layers separately.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Mr. Dottavio on 4-16-03 a provisional election was made with traverse to prosecute the invention of group I, claims 1-6. Affirmation of this election must be made by applicant in replying to this Office action. Claims 7-9 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Specification

3. The disclosure is objected to because of the following informalities: page 5, line 1, the number "20" should be deleted in that 20 is recited on page 4 as being an arrow.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless – (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1 and 3-4 are rejected under 35 U.S.C. 102(e) as being anticipated by Becker et al. (US 2002/0033225 A1).

Claim 1, Becker et al. teach a method of making shingles including (a) providing moving asphalt coated sheet 10 having at least overlay lane BCD (10a) and underlay lane A (10b) (para 0029, L 1-5; para 0043, L 12-15; para 0045, L 1-10), (b) discharging blend drops of at least two color blends onto lane BCD at box 30 and onto lane A at box 31 wherein at least one of the blend drops discharged onto lane BCD has a different color blend from the color blend of all the blend drops discharged onto lane A in that (para 0035, L 1-7 and 17-20), (c) discharging background granules onto sheet 10 to form a granule coated sheet in that at box 31 there is provided four bins where one of the bins deposits the granules onto lane E (10d) to form a granule coated sheet (para 0034, L 5-8; para 0037, L 6-8; para 0040, L 1-2), and (d) removing excess granules from the granule coated sheet (para 0041, L 1-7).

Claim 3, Becker et al. teach dividing that granule coated sheet into lanes BCD and A and laminating them together to form shingles (para 0043, L 12-15; para 0045, L 1-10). **Claim 4**, note from the drawings that the blend drops on lane BCD forms a shadow line on a tab or cutout of the shingle.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Becker et al.

Claim 2, Becker et al. do not specifically recite how many color blends are present.

However, it is conventional in the art to use two or more to achieve the desired colors and for this reason it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided for such in Becker et al.

8. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koschitzky (US 6,235,142 B1) in view of Becker et al.

Claim 5, Koschitzky teaches a method of making shingles including (a) providing moving asphalt coated sheet 10 having at least three lanes A (overlay), B (middle), and D (underlay), (b) discharging blend drops of at least two color blends onto lanes A, B, and D wherein each lane has a combination of color blends for the blend drops different from the combination of color blends for the blend drops of the other two lanes, (c) discharging background granules onto sheet 10 to form a granule coated sheet in that granules are applied at lane F, (d) dividing the granule coated sheet into separate lanes A, B, and D, and (e) laminating lanes A, B, and D together to form a trilaminate shingle.

Claim 5, *Koschitzky does not teach removing excess granules from the granule coated sheet.*

Becker et al. teach that after application of the colored granules, it is important to ensure the granules are embedded into the sheet by pressing the granules into the sheet where excess granules are removed.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided in Koschitzky a step of removing excess granules after discharge because Becker et al. teach in the same art of making shingles that after application of colored granules, it is important to ensure the granules are embedded into the sheet by pressing the granules into the sheet where excess granules are removed.

Claims 1 and 3, the above discussion of Koschitzky in view of Becker applies herein.

Claim 2, *Koschitzky do not specifically recite how many color blends are present.*

However, it is conventional in the art to use two or more to achieve the desired colors and for this reason it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided for such in Koschitzky.

Claim 4, note from the drawings that the blend drops on lane A forms a shadow line on a tab or cutout of the shingle.

Allowable Subject Matter

9. Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record teaches removing excess granules by collecting the granules in a backfall hopper; however, the prior art does not teach that the hopper segregates the granules from lane to lane and that application of the granules in the

second recited discharge step of claim 5 includes applying to each lane excess granules removed from that lane.

11. As allowable subject matter has been indicated, Applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

Conclusion

12. Any inquiry concerning this communication or earlier communications should be directed to Examiner Linda L. Gray at (703) 308-1093, Monday-Friday from 6:30 am to 3:30 pm. The necessary fax numbers are (703) 872-9310 and (703) 872-9311.

llg

August 26, 2003


LINDA GRAY
PRIMARY EXAMINER